

Department of Transportation
Statement of the Acting Maritime Administrator
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Before the
Sub-Committee on Coast Guard and Maritime Transportation
United States House of Representatives

Hearing on
Foreign Vessel Operations in the U.S. Exclusive Economic Zone

June 17, 2010

Good afternoon, Mr. Chairman and Members of the Committee. Thank you for the invitation to testify regarding offshore oil exploration, production, and support vessels and the U.S-flag merchant marine.

President Obama has said that the oil spill in the Gulf Coast is the worst environmental disaster of its kind in our nation's history. From the start of this crisis the Maritime Administration (MARAD) has supported the ongoing relief effort and monitored the impact on the maritime industry. MARAD is committed to working with the federal departments and agencies on the front lines of the response effort and providing them with whatever assistance they may need. We activated our command center as well as provided personnel to assist at the United States Coast Guard National Incident Command center, the Interagency Solutions Working Group, and with Marine Transportation System Recovery Units along the Gulf Coast. Fortunately, this spill has not significantly impacted the nation's marine transportation system – commerce and trade have continued, but with a navigator's watchful eye to avoid fouled Gulf waters. MARAD continues to monitor the impacts so that our nation's marine transportation system stays one step ahead of the oil.

I would like to express my condolences to the families of the eleven Deepwater Horizon crew who did not survive the explosion. We mourn their loss and we, like our sister agencies, are working diligently to make sure that this type of event does not occur again.

The Maritime Administration family was touched first hand by the tragic fire that overwhelmed the Deepwater Horizon. Two graduates of the United States Merchant Marine Academy were on board and both are heroes. Darin Rupinski, from Stony Point, New York, is a 2008 U.S. Merchant Marine Academy graduate. He was aboard the Deepwater Horizon when the explosion occurred and he helped lead the evacuation of the platform. After the fire, he credited the training he received from Kings Point with saving his and the lives of many others.¹ James Mansfield, who is a member of the U.S. Merchant Marine Academy Class of 2000 from Pipe Creek, Texas, was also aboard and was injured. Our thoughts remain with him through his recovery.

¹ <http://fastlane.dot.gov/2010/05/merchant-marine-academy-grad-helps-lead-evacuation-of-deepwater-horizon.html>

Among the first vessels to respond to the distress call of the Deepwater Horizon was the *Damon Bankston*, a vessel that was built in the United States, documented in the United States, and crewed by United States mariners. As her crew began pulling members of the Deepwater Horizon's crew from the Gulf she was joined by other U.S.-flag vessels that battled the blaze and saved a majority of the 126 crew who had to abandon the stricken oil rig. In the weeks that have passed since the sinking of the Deepwater Horizon numerous U.S.-flag vessels have responded to the crisis.

I want to emphasize that the Administration is committed to making certain that every asset possible is available to address this catastrophe. As this Committee knows well, the Jones Act requires that all cargoes transported between U.S. points must move aboard vessels that are U.S.-flag, U.S.-built, U.S.-owned and crewed by U.S. mariners.

Under certain circumstances, exceptions can be made to the Jones Act requirement. Through the authority of the Secretary of the Department of Homeland Security, U.S. Customs and Border Protection (CBP) is the agency responsible for granting or denying any requests for a waiver to the Jones Act. This is made after the Department of Defense, U.S. Coast Guard, and Department of Energy determine that it is not against U.S. national security interests to grant a waiver. As a threshold, however, such a determination is made only after the Maritime Administration finds that there are no U.S.-flagged vessels available for operation. There are also times during an event such as the Deepwater Horizon oil spill where the United States Coast Guard Federal On-Scene Coordinator can make an exception to U.S. cabotage laws to ensure that specific oil spill response vessels (OSRV) receive urgent attention and processing.²

When the Maritime Administration receives notification from either the Coast Guard Federal On-Scene Coordinator or CBP that it has received a request, the agency immediately queries industry for available U.S.-flagged mariners and vessels. MARAD and CBP are bound by a Memorandum of Understanding that requires MARAD to respond to CBP within 48 hours with a determination on the availability of U.S.-flag vessels.

In one situation during this oil spill response, a company tried to hire specialized foreign-built barges that could assist in the oil spill response and requested a waiver of the Jones Act. As is practice in all Jones Act waiver requests, CBP asked MARAD to determine if U.S.-flag barges were available that could meet the requirements of the operator. MARAD was able to locate many available equivalent U.S. -flag vessels and so informed CBP.

There are more than 100 U.S. firms that own and operate over 1,830 coastwise qualified offshore marine service vessels. These vessels include crew boats that transport workers to and from the U.S. to the offshore facilities as well as tugs, barges, and supply boats that carry every commodity required to operate and maintain the oil rigs. According to the Offshore Marine Service Association these vessels employ more than 12,000 U.S.

²46 USC sect. 55113

mariners and support the offshore oil and gas industry that has a payroll of over \$1.2 billion.

During the current situation in the Gulf of Mexico, U.S.-flag vessels have been used in every situation where U.S. vessels and crew are available. Seventy-seven percent of the vessels providing oil spill response in the Gulf are U.S.-flagged. For example, the extremely large cofferdam containment structure that was lowered in the early attempt to cover the spill on May 7, 2010 was transported to the site by a highly capable U.S.-flag vessel, the *Joe Griffin*, operated by Edison Chouest Offshore.

Even though twenty-three percent of the vessels responding to the oil spill are not U.S.-flag, none of these are known to be in violation of any U.S. law or regulation. Vessels that do not call upon points in the United States are not in violation of the Jones Act. There are also situations, especially in the energy exploration industry, where a vessel is so specialized and expensive to build and operate that there are only a few in the world like it. When a U.S.-flag vessel is not available or there is not a U.S. vessel with the equivalent capabilities of a foreign flag vessel, the operator may apply for a waiver of the Jones Act.

Recently, President Obama placed a 6-month moratorium on new offshore oil drilling in waters deeper than 500 feet until we can be sure it can be undertaken safely. This temporary moratorium will not impact deepwater port facilities licensed by MARAD as they are fundamentally different from the Deepwater Horizon facility. The Deepwater Horizon facility is an offshore rig intended for domestic oil drilling exploration and production. Deepwater ports, which are licensed by MARAD, are intended to facilitate the importation of Liquefied Natural Gas (LNG) and petroleum products into the United States by specially designed tankers. Deepwater LNG ports are not used in the exploration for, or production of, oil, gas or other mineral resources in the Outer Continental Shelf of the United States.

In the past 8 years, three deepwater ports have been licensed and constructed for the importation of LNG. These facilities have been specifically designed to minimize and mitigate adverse impacts on the marine and air environment. LNG spill risks are localized and confined to the deepwater port and its immediate surroundings. The construction of deepwater port terminals enhances safety and security by isolating terminals away from congested population areas and reducing the need for large tanker ships to enter congested land-side port areas.

In closing, I would like to again commend the work of our nation's heroic merchant mariners. Just as the U.S. merchant marine has capably served as a naval and military auxiliary in time of war, the Jones Act has ensured that we have a merchant marine that is capable of responding in time of national emergency in our coastal waters. While there are foreign-flag vessels operating in the U.S. exclusive economic zone in the Gulf of Mexico due to specific circumstances that require their unique services, they are not in violation of the Jones Act.

Thank you again for the opportunity to testify today. As always, the Maritime Administration will continue to work closely with the Committee to support the United States merchant marine and provide jobs to U.S. mariners. I look forward to working with you on advancing maritime transportation in the United States, and am happy to respond to any questions you and the members of this Committee may have.